

MAR 02, 2022 11:56 AM


 Robin C. Bishop, Clerk of State Court
 Cobb County, Georgia

IN THE STATE COURT OF COBB COUNTY
 STATE OF GEORGIA

LEANGELA MATTHEWS	§	
Plaintiff,	§	
v.	§	CIVIL ACTION
		FILE NO.
VARIETY WHOLESALERS, INC d/b/a	§	
ROSES DEPARTMENT STORE	§	
Defendants.	§	

COMPLAINT

COMES NOW Plaintiff Leangela Matthews, by and through her undersigned counsel, and herein files her complaint for damages against Variety Wholesalers, Inc. d/b/a Roses Department Store, as follows:

1.

Defendant Variety Wholesalers, Inc. d/b/a Roses Department Store (“Roses”) is a domestic corporation registered to do business in Georgia. It may be served with process through its registered agent, CSC of Cobb County, Inc., at 192 Anderson St. SE, Suite 125, Marietta, GA 30060.

2.

Jurisdiction is proper in this Court. Venue is proper pursuant to Ga. Const. of 1983, Art. VI, Sec. II, Par VI, and O.C.G.A. § 14-2-510(b)(1).

3.

On June 17, 2020, the Plaintiff was shopping at the Roses store located 1108 Zebulon Rd., Griffin, GA when she slipped on a orange liquid substance.



4.

Pursuant to O.C.G.A. § 51-3-1, Roses, Inc, as owner and occupier of the floor where the injury occurred, owed Plaintiff a non-delegable duty to keep the premises safe.

5.

Plaintiff was at all relevant times exercising ordinary care in walking through the premises as an invitee.

6.

Roses, Inc breached its duty owed to the Plaintiff by failing to keep the premises safe.

7.

Roses' negligence caused Plaintiff to incur the following medical specials:

MEDICAL SPECIALS - LEANGELA MATTHEWS (JOY)			
DATE FROM	DATE TO	PROVIDER	AMOUNT
6/17/2020		GA Emer Group	\$ 935.00
		GA Imaging Assoc - no longer in business	\$ -
6/24/2020	8/5/2020	Griffin Rehab Solutions	\$ 2,884.00
		Mak Anesthesia Holdings	\$ 920.00
6/29/2020		Privia Medical Group of GA aka McIntosh Trail Family Practice Assoc	\$ 215.00
7/17/2020		Privia Medical Group of GA aka McIntosh Trail Family Practice Assoc	\$ 346.00
10/1/2020		Privia Medical Group of GA aka McIntosh Trail Family Practice Assoc	\$ 183.00
11/11/2020		Privia Medical Group of GA aka McIntosh Trail Family Practice Assoc	\$ 315.00
1/29/2016	3/21/2021	Regenerative Ortho	\$ 18,493.00
6/17/2020		WellStar - Ambulance	\$ 1,191.50
6/17/2020		WellStar Spalding - ER visit - Imaging	\$ 3,074.10
		TOTAL MEDICALS	\$ 28,556.60
TBD		intra-articula and pericapsular PRP injections professional charge	\$2,000.00

TBD	intra-articula and pericapsular PRP injections facility charge	\$3,000.00
TBD	SI joint fusion facility charge	\$96,596.00
TBD	SI joint fusion professional charge	\$8,586.00
FUTURE POTENTIAL MEDICALS		\$110,182.00

Plaintiff has concluded treatment but she reserves the right to supplement these medical specials prior to the filing of the pre-trial order.

8.

Plaintiff incurred tremendous pain and suffering from her fall entitling her to recover past, present, and future pain and suffering in an amount to be determined by the enlightened conscious of an impartial jury.

WHEREFORE, Plaintiff respectfully prays as follows:

- (a) That there be a trial by a jury of all genuine issues of material fact;
- (b) That Plaintiff recover all of her past, present, and future medical specials incurred for her treatment proximately caused by the Roses negligence;
- (c) That Plaintiff recover her pain and suffering caused by the Roses negligence in an amount to be determined by the enlightened conscious of an impartial jury;
- (d) That all court costs be cast against the Roses; and
- (e) That this Court award such other and further relief it deems appropriate.

This 2nd day of March, 2022.

RESPECTFULLY SUBMITTED,

/s/ John H. Peavy, Jr.
JOHN H. PEAVY, JR.
Georgia Bar No. 569610
Attorney for Plaintiff

PEAVY LAW, LLC
One Atlantic Center
1201 West Peachtree Street, Suite 2300
Atlanta, Georgia 30309
Phone: (404) 874-0101
FAX: (404) 874-0404
E-Mail: jay@peavylawllc.com

IN THE STATE COURT OF COBB COUNTY
STATE OF GEORGIA

LEANGELA MATTHEWS,

Civil Action File No.
22-A-731

Plaintiff,

v.

VARIETY WHOLESALERS, INC.
D/B/A ROSES DEPARTMENT STORE,

Defendant.

_____ /

ANSWER OF DEFENDANT

COMES NOW, Defendant VARIETY WHOLESALERS, INC. D/B/A ROSES
DEPARTMENT STORE and makes this Answer to Plaintiff's Complaint as follows:

FIRST DEFENSE

Plaintiff's Complaint fails to state a claim against Defendant upon which relief
can be granted.

SECOND DEFENSE

Plaintiff's alleged damages, if any, were directly and proximately caused by
Plaintiff's own contributory negligence and failure to exercise ordinary care.

THIRD DEFENSE

Plaintiff was not in the exercise of ordinary care for her own safety in the
premises, and by the exercise of ordinary care could have avoided any injury to

herself; and on account thereof, Plaintiff is not entitled to recover from Defendant.

FOURTH DEFENSE

Defendant denies that it was negligent in any manner whatsoever or that any negligent act or omission on its part caused or contributed to any injury or damage alleged to have been sustained by Plaintiff.

FIFTH DEFENSE

Plaintiff assumed the risk of any hazard that was presented and is thereby barred from recovering against Defendant.

SIXTH DEFENSE

Plaintiff's claims are barred by insufficiency of service and insufficiency of process.

SEVENTH DEFENSE

Defendant responds to the enumerated paragraphs of Plaintiff's Complaint as follows:

1.

Defendant admits the allegations contained in paragraph 1 of the Plaintiff's Complaint.

2.

Defendant denies the allegations contained in paragraph 2 of Plaintiff's

Complaint. Jurisdiction and venue are now proper in the United States District Court, Northern District of Georgia, Atlanta Division.

3.

Defendant denies the allegations contained in paragraph 3 of the Plaintiff's Complaint.

4.

Defendant denies the allegations contained in paragraph 4 of the Plaintiff's Complaint, as stated. The applicable statute and case law speak for themselves and have been omitted.

5.

Defendant denies the allegations contained in paragraph 5 of the Plaintiff's Complaint.

6.

Defendant denies the allegations contained in paragraph 6 of the Plaintiff's Complaint.

7.

Defendant denies the allegations contained in paragraph 7 of the Plaintiff's Complaint.

8.

Defendant denies the allegations contained in paragraph 8 of the Plaintiff's Complaint.

9.

All other allegations contained in the Complaint which are not specifically responded to herein, are, therefore, denied.

10.

Defendant denies Plaintiff's prayer for relief, including subparagraphs (a), (b), (c), (d) and (e) thereof.

WHEREFORE, Defendant prays that Plaintiff's Complaint be dismissed with all costs cast upon the Plaintiff. DEFENDANT DEMANDS TRIAL BY A JURY OF TWELVE (12) PERSONS AS TO ALL ISSUES SO TRIABLE.

McLAIN & MERRITT, P.C.

/s/ Howard M. Lessinger
Howard M. Lessinger
Georgia Bar No. 447088
Attorneys for Defendant
VARIETY WHOLESALERS, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 365-4514
(404) 364-3138 (fax)
hlessinger@mmatllegal.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing ANSWER OF DEFENDANT VARIETY WHOLESALERS, INC. D/B/A ROSES DEPARTMENT STORE has this day been filed and served upon opposing counsel via Peach Court E-File.

This the 12th day of March, 2022.

McLAIN & MERRITT, P.C.

/s/ Howard M. Lessinger
Howard M. Lessinger
Georgia Bar No. 447088
Attorney for Defendant
VARIETY WHOLESALERS, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 365-4514
(404) 364-3138 (fax)
hlessinger@mmatllaw.com